

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MAEVE LAVERTY, Individually and On Behalf
of All Others Similarly Situated,

Plaintiff,

-against-

ALAN WASSER ASSOCIATES LLC,
CREATURE PRODUCTION COMPANY LLC,
IMMERSION EDUTAINMENT AMERICA, LLC
and FADER HIGHER MANAGEMENT LLC,

Defendants.

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RICHARD J. SULLIVAN, District Judge:

10 Civ. 1584 (RJS) (KNF)

ECF CASE

CASE MANAGEMENT PLAN
AND SCHEDULING ORDER

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DATE FILED: <u>6/7/10</u>

Pursuant to Rules 16-26(f) of the Federal Rules of Civil Procedure, the Court hereby adopts the following Case Management Plan and Scheduling Order.

1. All parties do not consent to disposition of this case by a Magistrate Judge, pursuant to 28 U.S.C. § 636(c).
2. This case is to be tried to a jury.
3. No additional parties, other than opt-in plaintiffs, may be joined except with leave of the Court.
4. Amended pleadings may not be filed except with leave of the Court.
5. Initial disclosures pursuant to Rule 26(a)(1) shall be completed no later than June 15, 2010.
6. Notice of the collective action and an opportunity to opt-in will be distributed on June 24, 2010.
7. The time period to opt-in to the lawsuit will close August 8, 2010, which is forty-five (45) days following distribution of the collective action notice.
8. All *fact* discovery is to be completed by December 10, 2010.
9. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. The following interim deadlines may be extended by the parties on consent without

application to the Court, provided that the parties meet the deadline for completing fact discovery set forth in ¶ 6 above.

- a. Initial requests for production of documents shall be served on or before the close of the opt-in period.
- b. Initial sets of interrogatories shall be served on or before the close of the opt-in period.
- c. Depositions shall be completed by December 10, 2010.
 - i. Absent an agreement between the parties or an order from the Court, depositions are not to be held until all parties have responded to initial requests for document production.
 - ii. There is no priority in deposition by reason of a party's status as a plaintiff or a defendant.
 - iii. Absent an agreement between the parties or an order from the Court, non-party depositions shall follow initial party depositions.
- d. Requests to Admit shall be served by November 10, 2010.

10. All *expert* disclosures, including reports, production of underlying documents, and depositions shall be completed pursuant to the following deadlines:

- a. Expert(s) of Plaintiff(s): by January 10, 2010.
- b. Expert(s) of Defendant(s): by February 10, 2010.

11. All discovery shall be completed by February 10, 2011.

12. The Court will conduct a post-discovery conference on 3/4/11 at 9:30 a.m. *[To be completed by the Court. The conference will be scheduled within three weeks of the close of all discovery.]*

13. If either party contemplates a motion, the post-discovery conference will function as a pre-motion conference. Pre-motion letters are to be submitted by 2/18/11. *[To be completed by the Court. The deadline will be no later than two weeks prior to the post-discovery status conference.]* Pursuant to Rule 2.A of the Court's Individual Practices, responses to pre-motion letters are to be submitted within three business days from the date of service of the initial promotion letter. Pre-motion letters and responses shall be submitted to the chambers' email address at sullivannysdchambers@nysd.uscourts.gov.

14. If neither party contemplates a dispositive motion, the post-discovery conference will function as a pre-trial conference at which a trial date will be set.

15. Counsel for the parties request a settlement conference before a Magistrate Judge or the Southern District's Mediation Program and request: [Please check one. *All counsel must meet for at least one hour to discuss settlement not later than two weeks following the close of fact discovery.*]
a. Referral to a Magistrate Judge for settlement discussions
b. Referral to the Southern District's Mediation Program
The parties are to contact Magistrate Judge Fox by no later than 12/17/10. *[To be completed by the Court after consultation with the parties.]*

16. Parties have conferred and their present best estimate of the length of trial is three weeks.

SO ORDERED.

DATED: 6/4, 2010
New York, New York



RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE